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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,795	06/29/2001	Magnus Wallgren	ALBIHN W 3.0-414	8299

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EXAMINER

HARTMANN, GARY S

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/896,795

Applicant(s)

WALLGREN ET AL.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-38 is/are pending in the application.
- 4a) Of the above claim(s) 23-26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-32 is/are allowed.
- 6) ☒ Claim(s) 2-4, 11-22 and 33-38 is/are rejected.
- 7) ☒ Claim(s) 5-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-4 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedblom (U.S. Patent 5,676,488) in view of McGrath et al. (U.S. Patent 4,248,748). Hedblom discloses a surface marking including resin, thermoplastic polymers, softeners, reflecting material, and friction material (see Table at column 16-17, for example). There are at least two layers (Figure 2, for example) including a wear layer (see abstract, for example) and a heat-activatable adhesive material (column 11, lines 18-23, for example). Hedblom is silent regarding the heat-activatable adhesive to adhere the marking to the surface; however, the marking is clearly intended to be adhered to the surface. McGrath et al. disclose a heat activatable adhesive and specifically teach it for use to adhere a marking to a roadway surface (column 4, lines 41-43, for example). In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the adhesive of McGrath et al. with the marking of Hedblom in order to obtain a secure placement on a roadway.

3. Claims 11-16 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedblom and McGrath et al., as applied above, and further in view of Hackworth et al. (U.S. Patent 5,679,437). Hedblom does not disclose the reinforcing sheet. Hackworth et al. teaches a surface marking including a reinforcing mesh (14). It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to have used the sheet of Hackworth et al. with the marking of Hedblom in order to obtain a durable marking, as taught by Hackworth et al.

Regarding the placement of the reinforcing sheet in the marking, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed the sheet as desired in order to obtain a particular structural characteristic.

#### *Allowable Subject Matter*

4. Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 27-32 are allowed.

#### *Response to Arguments*

6. Applicant's arguments filed 6/12/2003 have been considered but are moot in view of the new grounds of rejection.

#### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



**Gary Hartmann**  
**Primary Examiner**  
**Art Unit 3671**

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June 19, 2003